

U.S. Department of Justice



United States Attorney
Southern District of New York

The Silvio J. Mollo Building
One Saint Andrew's Plaza
New York, New York 10007

June 25, 2010

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BY TELECOPIER

The Honorable Kimba M. Wood
United States District Judge
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

MEMO ENDORSED

Re: United States v. Jose Suarez, S12 04 Cr. 251 (KMW)

Dear Judge Wood:

The Government writes to report on the status of the Supreme Court's consideration of the interpretation of the mandatory sentencing provisions of Title 18, United States Code, Section 924(c). On January 25, 2010, the Supreme Court granted certiorari in Abbott v. United States, No. 09-479, and Gould v. United States, No. 09-7073, to decide whether Section 924(c)'s "except" clause prohibits imposition of a Section 924(c) sentence if the defendant is also subject to a greater mandatory minimum sentence for the underlying drug trafficking or violent offense or for a related firearms offense. A review of the Supreme Court's docket indicates that the petitioners have filed their briefs and that the respondent's brief is due on or about July 15, 2010. We expect that the Court will hear oral argument early in the October 2010 term. Because these issues are before the Supreme Court, the Government respectfully requests that the Court adjourn the sentencing for defendant Jose Suarez until the Supreme Court decides the pending cases. The Government requests that the Court fix a control date in approximately 6 months. The Government will advise the Court when the Supreme Court decides the pending cases.

granted
hmw

The Court adjourns defendant's
sentencing, and sets a control
sentencing date of December
20, 2010, at 10:00 A.M.

Respectfully submitted,

PREET BHARARA
United States Attorney
Southern District of New York
By:
John J. O'Donnell
Assistant United States Attorney
(212) 637-2490

cc: Henry Marines, Esq. (by telecopier)

SO ORDERED: 6-28-10

KIMBA M. WOOD
U. S. D. J.